

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1377-MN-JLH

MASIMO CORPORATION,

Counter-Claimant,

v.

APPLE INC.

Counter-Defendant.

APPLE INC.,

Plaintiff,

v.

MASIMO CORPORATION and
SOUND UNITED, LLC,

Defendants.

C.A. No. 22-1378-MN-JLH

MASIMO CORPORATION and
CERCACOR LABORATORIES, INC.,

Counter-Claimants,

v.

APPLE INC.

Counter-Defendant.

**JOINT MOTION FOR CONFERENCE TO
RESOLVE DISCOVERY DISPUTES**

Pursuant to Paragraph 8(g) of the Scheduling Order (D.I. 103, C.A. No. 22-1377; D.I.

92, C.A. No. 22-1378), Defendant Masimo Corporation, Defendant Sound United, LLC, and Counterclaimant Cercacor Laboratories, Inc., and Plaintiff Apple Inc. respectfully move to schedule a conference to address outstanding disputes regarding the following discovery issues:

- 1) Whether Apple must supplement its response to Masimo's interrogatory 3.
- 2) Whether each party must immediately disclose whether it is waiving privilege on any issue currently in the case and supplement its production and disclosures accordingly OR whether there should be a future deadline for disclosure of any privilege waivers and supplementation following any such disclosure.

The following attorneys, including at least one Delaware Counsel and at least one Lead Counsel per party, participated in a verbal meet-and-confer by telephone on the following dates:
issue 1: June 2, June 5, and July 10, 2023; issue 2: July 17, 2023.

Delaware Counsel:

For Masimo: John C. Phillips, Jr.

For Apple: David E. Moore

Lead Counsel:

For Masimo: Jared Bunker (issue 1), Mark Lezama (issue 2, *pro hac vice* application forthcoming)

For Apple: Benjamin Luehrs (issue 1), Carson Olsheski (issue 2), Jeffrey S. Seddon (issue 2), Mark A. Ford (issue 2)

For efficiency, the parties respectfully propose scheduling the conference to take place in person on August 3, 2023, to coincide with the date for an existing in-person conference (*see* C.A. No. 22-1377, D.I. 181).

Alternatively, the parties are available for a teleconference on the following dates:
August 1–4, 2023.

Dated: July 24, 2023

POTTER ANDERSON & CORROON LLP

PHILLIPS MCLAUGHLIN & HALL, P.A.

/s/ Bindu A. Palapura

David E. Moore (#3983)
Bindu A. Palapura (#5370)
Hercules Plaza, 6th Floor
1313 N. Market Street
Wilmington, DE 19801
(302) 984-6000
dmoore@potteranderson.com
bpalapura@potteranderson.com

Attorneys for Plaintiff

/s/ John C. Phillips, Jr.

John C. Phillips, Jr. (#110)
Megan C. Haney (#5016)
1200 North Broom Street
Wilmington, Delaware 19806
(302) 655-4200
jcp@pmhdelaw.com
mch@pmhdelaw.com

Attorneys for Defendants and Counterclaimants